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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-first session

SUMMARY RECORD OF THE 1535th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 13 August 2002 at 10 a.m.

Chairman: Mr. DIACONU

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The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Eleventh to fourteenth periodic reports of Yemen (CERD/C/362/Add.8; HRI/CORE/1/Add.115) (continued)

1. At the invitation of the Chairman, the members of the delegation of Yemen resumed their places at the Committee table.

2. Mr. AL-DURAIBI (Yemen), replying to questions asked by the Committee, said that Yemen was a homogeneous society in terms of religion, language, customs and practices. Discrimination did not and could not exist because the population was essentially monoethnic and wholly Muslim. In any event, Islam was a tolerant religion. It also forbade proselytism, which meant that people in Yemen were free to choose their religion, but at the same time a Muslim could not renounce his faith. Yemen was basically a tribal and pastoral society, yet town dwellers enjoyed exactly the same rights as the rural population. Tribal conflicts were usually settled by tribal custom.

3. The Yemeni Government was currently looking at the possibility of making incitement to racial discrimination a criminal offence; it was also reviewing the reservations which Yemen had made to various articles of the Convention. Foreigners were not entitled to participate in elections or to serve in the military, but their personal freedom and security and their access to the courts was guaranteed. The Jewish community, numbering just 5000 people, was the sole religious minority in Yemen. The various conditions for acquiring Yemeni citizenship, for example upon marriage, were governed by the Nationality Act. The rules for inheritance by men and women were laid down by the Islamic Shariah. Incidentally, it should come as no surprise that in a country where 99 per cent of the population was Muslim, the Constitution should enshrine Islam as the State religion.

4. The Akhdam, a group of people who had originally come to Yemen from Africa in pre-Christian times, were not an ethnic minority because they were fully integrated into Yemeni society, enjoying exactly the same rights as everybody else. The colour of their skin was not an issue. Nevertheless, the Government had put in place a range of measures to further improve their social and economic well-being, especially with regard to housing, education, sports, recreation and literacy drives.

5. Recent conflict in the Horn of Africa had brought large numbers of refugees to Yemen's shores. There were currently some 57,000 Somali refugees, 2,500 Eritreans and 1,200 Ethiopians. Despite the heavy strain on the economy and the infrastructure of the country, the Government had provided for them in collaboration with the Office of the United Nations High Commissioner for Refugees. Among programmes to assist special-needs and disadvantaged categories were the Public Works Project, the Social Fund for Development, a special unit to develop small enterprises, and a programme for productive families. Those initiatives had already achieved tangible results, especially in the field of job creation, and a significant proportion of programme beneficiaries were women.

6. No cases of racial discrimination against foreign workers had ever been brought before the Yemeni courts. It was inconceivable that illiterate persons could be elected to public bodies, but all Yemeni citizens had the right to vote, regardless of whether they could read or write. As to the Committee's suggestion that the Government might consider establishing a human rights commission, there already existed a special unit to monitor respect for human rights. Among the various measures taken to disseminate the provisions of the Convention, the Committee should be aware that every year Yemen celebrated human rights day on 10 December. In addition an official human rights bulletin was published every month with a view to raising awareness of all human rights.

7. Ms. FAFEE (Yemen) said that the Committee should be aware that Yemen had undergone a period of painful economic transition connected with the reunification of two separate States. The fact that Yemen had opted for a democratic system of government and political pluralism, and had settled its border disputes by peaceful means, had introduced a certain measure of stability and created favourable conditions for the promotion and protection of human rights. Men and women participated equally in the political, economic and social life of the country. The refugee issue was a considerable drain on resources, yet the Government had not shirked its obligations. Illegal immigrants were either detained in host camps pending a decision on how to deal with them, or returned to their countries of origin.

8. Most important of all, however, it should be borne in mind that Islam was a religion of peace and tolerance. It drew no distinction between Arabs and non-Arabs, except in respect of piety. The unfortunate and erroneous identification of Islam with terrorism should not be allowed to obscure the fact that, in many ways, Islam and human rights were overlapping value systems. The fact that religion had been a source of law in Yemen for hundreds of years surely bore witness to that claim. Islam, democracy and human rights could coexist harmoniously.

9. Mr. ABOUL-NASR praised the delegation for the precise and candid information it had provided in the course of the discussion; he would attempt to be equally frank. He disputed the claim that racial discrimination did not occur in Yemen, as he firmly believed that problems relating to racial discrimination arose in all countries of the world. The Committee had many a time refused to accept such categorical statements. Even if there were currently no evidence of racial discrimination, there was always a risk that problems could arise in the future.

10. He questioned the delegation's comment that there was only one ethnic group in Yemen: the Akhdam were people of African descent who clearly had a different status from other Yemeni nationals and did not enjoy the same freedoms. Furthermore, he understood that there were several different tribes in Yemen which each had their own dialect and different ethnic characteristics. The Government should take steps to preserve the rights of different ethnic groups.

11. It was disappointing that the State party had focused in its report (CERD/C/362/Add.8) on topics that were unrelated to the Convention. Reference to issues such as gender inequality should only be made in relation to racial discrimination, to prevent attention from being distracted from the main issue. He disagreed with the State party's strict interpretations of the Koran, outlined in the report. Such a discussion was inappropriate in the context of the Convention. He expressed concern that people who did not embrace Islam might face some

form of discrimination on grounds of their religion. However, in spite of his criticisms, he welcomed the report and the spirit in which it had been introduced. He was particularly pleased that one member of the delegation was a woman, given the difficulties women faced in Yemen in the field of education.

12. Mr. THIAM welcomed the delegation's frank dialogue with the Committee. He had been interested to learn that conflicts could be solved either by customary law or by the State authorities. However, as the Shariah was the source of all legislation in Yemen, he would be interested to know what place was given to customary law in the legal system and, in particular, what role the institutions of customary law played in settling conflicts between the various tribes. The State party should indicate whether conflicts arose among tribes living in different geographical areas and practising different economic activities as a consequence of the distinction between or exclusion of certain tribes. He agreed with the previous speaker that it was difficult to believe that racial discrimination did not occur in Yemen.

13. He would like to know whether a Yemeni citizen had the right to invoke the Convention in court, and also to what degree the provisions of the Convention were incorporated into the legal system. Further details should be provided about the conditions for acquiring Yemeni nationality. Persons born to a Yemeni mother outside Yemen were not considered to be Yemeni nationals, which constituted a form of exclusion on grounds of descent. It would be interesting to learn how such individuals went about acquiring nationality.

14. As a Muslim, he was proud to see that Yemen fully enshrined the values of the Islamic faith; he hoped that Islam would continue to form the basis of Yemeni law, in strict compliance with universal standards. It was a blessing that there were no signs in Yemen of the extremist tendencies that had led to the recent acts of terrorism. He wished the Government continuing success in its efforts to promote the Convention.

15. Mr. de GOUTTES said that, in the light of the tragic events of 11 September 2001, the Committee had been paying particular attention to the counter terrorism measures of reporting States, to ensure that such measures were in compliance with the State's human rights obligations. He would be interested to learn whether any counter terrorism measures had been put in place in Yemen in response to the events of 11 September 2001. He would also like to know the Government's position regarding the optional declaration provided for in article 14 of the Convention, concerning the consideration of individual complaints.

16. Mr. SHAHI said that the report and discussion clearly reflected the inherent compatibility and harmony between Islamic civilization and the world culture of human rights, in other words a dialogue of civilization

17. Referring to the assertion that racial discrimination did not occur in Yemen, he noted that no demographic data had been provided to indicate the origins of different segments of the population. The Committee had consistently taken the view that, even where there was apparently no racial discrimination, there was still a need for legislation to be enacted in conformity with articles 2, 3 and 4 of the Convention, because such discrimination could arise in the future. However, it was fair to state that no evidence had emerged from non-governmental organizations (NGOs) and other human rights institutions to suggest that racial discrimination

did exist in Yemen; the State party should be entitled to the benefit of the doubt. Therefore, the Committee could only recommend that precautions should be taken to ensure that such discrimination did not arise in the future.

18. Ms. FAFEE (Yemen) said she welcomed the interest shown in the human rights situation in Yemen. The Committee's comments would assist the Government in its work in that field. The Government currently counted on the support of the approximately 2,900 NGOs that were active in the country.

19. The tribes in Yemen did not form different ethnic groups; on the contrary, they shared a common point of origin and did not have diverging interests. For centuries, the tribespeople of Yemen, who were largely involved in pastoral activities, had lived in harmony; the only areas of conflict had perhaps been the coastal fishing areas. Even in the cities, people from different tribes worked together in conducting their economic activities, a fact that boded well for the future. The tribespeople were extremely proud of their social fabric, which was based on values such as family unity, solidarity, the protection of the weak and providing a safe environment for their children. None of their values were considered to be damaging to Yemeni society as a whole. It was worth noting that women played a very important role in tribal society.

20. Disputes among Yemeni tribes did not systematically give rise to armed conflicts; internal conflicts were generally solved peacefully within the tribe itself, without recourse to the courts, because it was felt that such recourse might perpetuate the problem. If that was not possible, the national police could take action. The Yemeni tribes were unique in their nature, and could not be compared to the tribes in Afghanistan, for example.

21. All elements of the Convention had been incorporated into Yemeni domestic legislation. Under the Constitution, which faithfully reflected the provisions of the Convention, no discrimination was permitted on the basis of ethnic origin, skin colour, gender or religion. Nor was any distinction made between citizens born in Yemen and naturalized citizens of that country. If certain other conditions were fulfilled, any person could acquire citizenship by naturalization after residing for five years in the country; marriage to a Yemeni citizen also facilitated the naturalization process. Until recently, the law had provided that children of mixed foreign and Yemeni marriages took the nationality of their fathers; it now established that such a child had the right to dual nationality, could choose Yemeni nationality on reaching the age of majority, and had the same rights as a Yemeni child while still a minor. Civil society had worked energetically to combat discrimination against women, and had brought about many important legal and social changes as a result.

22. As an academic frequenting academic circles in Yemen, she had seen no signs of racial discrimination or racial discord. People - individuals, not ethnic groups - from Africa and elsewhere had long since migrated into Yemen and they had mingled with Yemeni society and married into it. They were citizens like any other, and were treated with friendly respect. Throughout its history, Yemen had given a warm welcome to the monotheistic religions of Judaism and Christianity, in addition to Islam, and had placed no restrictions on them. A nation of openness and tolerance, Yemen hoped to prevent any conceivable form of racial discrimination before it occurred. She concurred, however, that no society was exempt from problems.

23. Yemen had a strong will to improve and to change; and was dedicated to the development process. Its current challenge was to provide education and health-care services to all its citizens. Finally, she said that the report had provided such a wealth of information because the Government was striving to achieve transparency. It had every intention of incorporating faithfully and fully every aspect of the Convention into its domestic laws.

24. Mr. RESHETOV (Country Rapporteur) said that the Committee was satisfied with the report and with the constructive additional information provided by the delegation. The dialogue had been characterized by frankness, self-criticism, and a spirit of transparency, and had given the Committee a much greater understanding of the situation in Yemen. It should be clear that discussions with States parties such as Yemen should be seen as a dialogue of civilization; a State party was not expected to renounce its way of life. The delegation had indicated that Islam in principle forbade discrimination on any basis, and also that racial discrimination did not exist in Yemen. The Committee, however, abided by the conviction that cases of racial discrimination could and did occur in all countries. It was uncertain whether racial discrimination, in the conventional sense, existed in Yemen. And yet there were conflicts, sometimes violent ones, between tribes, and tribes were groups with different origins. The explanations given on the situation of the Akhdam had reassured him. Neither the Committee nor the State party should be too categorical in their positions: in his view, they were moving closer together. He had been gratified to learn that consideration was being given to the criminalization of acts proscribed by article 4 of the Convention.

25. If he understood correctly, Yemen's reservations to the Convention had been entered by the former Yemen Arab Republic, and that the matter was as yet unresolved. Since Yemen had implemented aspects of the articles in question, he wondered whether it would consider lifting the reservation thereto.

26. Since the delegation had indicated that Islam constituted the foundation of the social, economic and political life of the country, he wondered what was the situation of persons and families who were not Muslims. The question had been asked how property belonging to a married couple of mixed origin was disposed of after a divorce: no answer had been given.

27. He wondered whether the question raised with respect to counter-terrorism measures in Yemen gave the impression that the Committee was asking Yemen whether or not it was harbouring terrorists. In general, the Committee asked that question of all countries: there was no specific reason that it should be asked of Yemen, and he, for one, had no expectation about the answer that it might provoke. Finally, he said that he hoped that the next report would be submitted in a timely manner.

28. Ms. FAFEE (Yemen) said that property laws that applied to Muslims were not mandatory: a Muslim person could choose to apply them or not. For non-Muslims, the distribution of property was determined by family law.

29. The Government of Yemen strongly condemned terrorism. Such condemnation was consistent with the values of the Yemeni people: it was not in their nature to resort to violence to resolve conflicts. Yemen had suffered from acts of political terrorism, and believed that it was a serious scourge that violated the principles of democracy and law. The Government had taken a

number of measures to combat terrorism prior to the events of 11 September 2001. In April 2001, it had closed all religious schools, and integrated those students into the civil schools, with a view to preventing the development of two separate social groups within the same generation, one holding intolerant fundamentalist views, the other representing a more open and modern viewpoint.

30. The events of 11 September, 2001 had affected all the countries of the world. At the time, many Yemenis had been living abroad, and many, in fact, had been living in the United States of America. The condemnation of Arabs and Muslims that had resulted from those events had profoundly affected them. Interrogations and deportations had occurred, and persons who clearly had had no role in those actions had wrongly suffered. A number of Yemenis, particularly students, had been obliged to return home. The Government believed that chaos would ensue if any person that merely looked like an Arab was held accountable for those horrific events. In the view of the Government, the best means of combating terrorism was educating children in the culture of peace and security, and providing them with jobs and hope.

31. It was true that marginal communities existed in all societies. The Yemenis who had returned home following the Gulf war, after suffering the trauma of violent conflict, formed one such community; the Government of Yemen had assumed the responsibility for providing care and assistance to them. It also provided care for the poor.

32. Finally, she said that her Government was grateful for all the Committee's questions and observations, and believed that, with its help, it could lay the foundations for a lasting democracy.

33. The CHAIRMAN, thanking the delegation, said that the dialogue had been instructive and fruitful.

34. The delegation of Yemen withdrew.

The meeting was suspended at 12.05 p.m. and resumed at 12.25 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued) (CERD/C/61/Misc.4)

35. The CHAIRMAN drew Committee members' attention to the following sections contained in an informal document on organizational matters (CERD/C/61/Misc.4): Reports of State parties, Presence of the delegation of the State party, Introductory presentation by the State party's representative, Action of country rapporteurs, Interventions by members of the Committee , Reply of the State party's representative and The Committee's concluding observations, and invited them to suggest any changes they might deem necessary.

36. Mr. VALENCIA RODRIGUEZ, referring to the first section entitled "Reports of States parties", said that the main subject of concern was the length of States parties' reports. He

recalled that, at the meeting of chairpersons of the human rights treaty bodies and at the inter-committee meeting, the committees had been invited to coordinate among themselves the dates on which States parties would be required to submit their reports to avoid a situation where a country had to submit several reports within a short space of time.

37. Mr. SICILIANOS said that, although the proposal to limit the length of reports had been prompted by financial constraints, the rule should not be too strictly applied and there should be some flexibility. In his experience, when reports were of the length suggested, they often tended to describe recent legislation rather than practical measures and the Committee then had to request additional information from the delegations. The feasibility of imposing strict limitations on length also had to be considered in the light of the extensive requirements of the Convention, as well as the submission by States parties of combined reports, which sometimes covered a period of 10 years or more. Moreover, in order to formulate concluding observations that were of real practical value, the Committee had to have the relevant factual information at its disposal.

38. Mr. PILLAI observed that the nature and extent of the issues contained in a report, as evidenced by the amount of time allocated for its consideration, gave some indication of the difficulty involved in imposing a strict limitation on length. He agreed that the combined reports would represent a particular difficulty and that reports tended to be too descriptive. Governments should therefore be encouraged to concentrate on quality rather than quantity.

39. Mr. HERNDL said that he would be reluctant to curtail the length of the reports of States parties that wanted to be more explicit. There could be no harm in establishing a general rule on length provided it was not rigidly applied. As things stood, annexes were frequently not reproduced, which was a pity as they often provided valuable information on national legislation. It was worth noting that a previous attempt by the Organization to impose limitations on documents had had political repercussions. It was also important to differentiate between the initial report, which might reasonably be longer, and periodic and updating reports. He agreed that it would be desirable to increase coordination among the treaty bodies over submission of the reports of States parties and suggested that wording to that effect should be included in the final version of the document. However, caution should be exercised with regard to the first paragraph; a milder formulation was needed as the use of "adequately" could be taken to imply that reports which exceeded the recommended length would not be given adequate consideration. On the other hand, the impact of the second paragraph should be strengthened by the insertion of "must" or "ought to" between "reports" and "be".

40. Mr. AMIR said that, given the amount of detailed information that States parties were expected to provide regarding the measures they were taking to implement the various articles of the Convention, it was unrealistic to insist that in every case reports should be no longer than 20 or 32 pages.

41. Mr. ABOUL-NASR put forward the following recommendations: States parties should be requested to make their reports as brief as possible; they should abide by the Convention and not report on issues that were outside the Committee's competence, and the Committee should limit the number of its questions.

42. The CHAIRMAN said on the last point that there should not be any written recommendations addressed to the Committee.

43. Mr. BOSSUYT said that it would be useful to include some indication of the preferred number of pages, such as 32 pages, so long as it was formulated as a suggestion, in order to avoid being confronted by long reports cataloguing national legislation.

44. Mr. de GOUTTES said that it would be helpful to know whether the other treaty bodies required States parties to limit the length of their reports and, if so, to how many pages. Rather than arbitrarily fixing the number of pages, and, subject to current practice of the other treaty bodies, the Committee might call upon Governments to concentrate in their reports on developments in the areas covered by the Convention and not to go into details about subjects covered by other human rights treaties.

45. Mr. THIAM said that ensuring that reports were drafted in accordance with the guidelines adopted by the Committee, as was stated in the second paragraph, was, in practice, more important than restricting their length. He therefore proposed reversing the order of the first and second paragraphs.

46. Mr. VALENCIA RODRIGUEZ said that, having listened to the comments of Committee members, he would suggest that in the current second paragraph, "recommended" should be replaced with "requested" and that "should" be inserted between "reports" and "be". In the current first paragraph "with the exception of combined reports" could be inserted after "adequately" and "in principle" between "that" and "initial".

47. The CHAIRMAN said that those suggestions did not reflect all members' comments. He recalled Mr. Herndl's concern about the opening phrase in the first paragraph. The sentence should begin: "The Committee suggests ...". Furthermore, the proposal to the effect that States parties should be asked to confine their reports to areas covered by the Convention was entirely appropriate. The insertion of "with the exception of combined reports" was not appropriate as they accounted for the majority of the reports submitted, and no recommendation would be credible unless they were included. Further work was needed on devising a version that reflected members' comments in a synoptic form.

48. Ms. PROUVEZ (Secretary of the Committee) said, by way of a preliminary reply to Mr. de Gouttes' question about the length of reports to other treaty bodies, that the Committee on the Rights of the Child had decided to limit the length of its States parties' reports to 120 pages bearing in mind that reports could run to 300 pages. The Human Rights Committee had discussed the issue at its session in July 2002, but had not reached a decision, although the general tendency had been to agree that some limitation on length should be imposed. Furthermore, if the treaty bodies did not take measures to reduce the number of pages in the reports, the General Assembly might come to a decision of its own, which would then be imposed upon them.

49. The CHAIRMAN informed the Committee that he had received a letter from the Ambassador of Turkey regarding the Committee's discussion of the report of Armenia and Armenia's references to genocide. There was no criticism of the Committee, but copies would

be made available to the Committee as had been requested, for information, together with copies of an earlier letter dated 2 July 2002. An annex was attached which contained a statement by a number of American academics.

50. He had also received a letter from the Ambassador of Fiji, which, regrettably, clearly demonstrated that he had not understood either the working methods of the Committee or its relationship with the press. The Ambassador referred to a statement made to the press by a representative of an NGO from Fiji for which he held the Committee responsible. He proposed sending a letter advising him that representatives of NGOs did not represent the views of the Committee or any of its members and that, furthermore, the Committee was expecting to receive a completed version of his country's report in March 2003 for consideration, when his presence was also expected.

51. Mr. ABOUL-NASR said that, since the letter contained an accusation against a member of the Committee, any reply should be strongly worded and make it clear to the Ambassador that he should check his facts before calling the credibility of the Committee into question.

52. Ms. JANUARY-BARDILL agreed with Mr. Aboul-Nasr. It was also a matter of concern that the NGO representative had misrepresented to the press what had taken place in the meeting. She would like to hear the views of Committee members on how such an issue should be dealt with since it called into question the nature of the Committee's relationship with NGOs.

53. The CHAIRMAN, responding to a point of order raised by Mr. BOSSUYT, said that the discussion would be postponed until the Committee's afternoon session.

The meeting rose at 1.05 p.m.